

### REMARKS

Initially, Applicant would like to request that a corrected filing receipt be issued in response to Applicant's preliminary amendment filed on June 16, 2004.

In response to the office action dated August 24, 2005, Applicant has amended claims 1, 9, 11, 16, 19, 36-39, 59, 63, 64, 75-77, and 79-82; cancelled claims 8, 12, and 30-35; and amended the specification. Claims 1-7, 9-11, 13-29, and 36-82 are presented for examination.

The Examiner indicated that DE 4430415 and DE 4300420 "have been stricken from the IDS since no English-language abstract or translation was provided and no reference was made to said references in applicant's specification." Applicant submits herewith a copy of the English abstract of each reference. Applicant requests that the Examiner consider these two references and make them of record.

The Examiner objected to claim 19. Specifically, the Examiner indicated that "the word 'or' in the second line is redundant and should therefore be deleted." Applicant amended this claim accordingly.

The Examiner objected to claim 36-43 and 75-77. Specifically, the Examiner contended that "the molecular weight [recited in these claims] lacks basis, i.e., is it weight-average molecular weight or number-average molecular weight?" Applicant would like to bring to the Examiner's attention that the term "molecular weight" has been defined in the Specification to refer to a weight average molecular weight. See page 18, lines 7-8. Applicant therefore requests reconsideration and withdrawn of this objection.

The Examiner rejected claims 30-35 under 35 U.S.C. §112, 2<sup>nd</sup> paragraph. Applicant cancelled these claims, so this rejection should be withdrawn.

The Examiner rejected claims 1-40, 43-49, and 52-81 under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Liggat, U.S. Patent 5,693,389 ("Liggat").

As amended, pending claims 1-7, 9-11, 13-29, 36-40, 43-49, and 52-81 cover blends that include from about 25 % by weight to about 49 % by weight of the second PHA. The second PHA is a copolymer containing at least two different comonomers, one of which is 4-hydroxybutyrate, 3-hydroxypropionate, 4-hydroxyvalerate, 6-hydroxyhexanoate, 3-

hydroxyhexanoate, 3-hydroxyoctanoate, 3-hydroxydecanoate, 3-hydroxydodecanoate, or 3-hydroxydodecenoate. Such PHA blends exhibit relatively high flexibility. See, e.g., Examples 2-4 of the Specification.

Liggat discloses a polyester composition containing at least a first PHA-X and a second PHA-Y. See, e.g., the Abstract. It also discloses that the composition contains from 0.1 to 20% w/w of the second PHA-Y. See column 2, lines 48-51. Liggat does not disclose or suggest blends that include from about 25 % by weight to about 49 % by weight of the second PHA, as required by claims 1-7, 9-11, 13-29, 36-40, 43-49, and 52-81. Liggat also does not disclose or suggest that the composition includes a copolymer containing a comonomer required by claims 1-7, 9-11, 13-29, 36-40, 43-49, and 52-81. Thus, claims 1-7, 9-11, 13-29, 36-40, 43-49, and 52-81 are not anticipated or rendered obvious by Liggat. For at least the reasons set forth above, Applicant requests reconsideration and withdrawal of this rejection.

The Examiner rejected claims 1-37, 44-73, and 78-82 under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Hammond, U.S. Patent 5,646,217 ("Hammond").

Pending claims 1-7, 9-11, 13-29, 36, 37, 44-73, and 78-81, as amended, cover blends that include from about 25 % by weight to about 49 % by weight of the second PHA. The second PHA is a copolymer containing at least two different comonomers, one of which is 4-hydroxybutyrate, 3-hydroxypropionate, 4-hydroxyvalerate, 6-hydroxyhexanoate, 3-hydroxyhexanoate, 3-hydroxyoctanoate, 3-hydroxydecanoate, 3-hydroxydodecanoate, or 3-hydroxydodecenoate.

Hammond discloses a polymer composition containing a first PHA component and optionally a second PHA component. See, e.g., the Abstract. However, Hammond does not disclose or suggest that the composition contains from 25 wt% to 49 wt% of a second PHA, as required by claims 1-7, 9-11, 13-29, 36, 37, 44-73, and 78-81. Hammond also does not disclose or suggest a copolymer containing a comonomer required by claims 1-7, 9-11, 13-29, 36, 37, 44-73, and 78-81. Thus, claims 1-7, 9-11, 13-29, 36, 37, 44-73, and 78-81 are not anticipated or rendered obvious by Hammond.

Applicant now turns to claim 82. As amended, claim 82 covers blends that contain a first PHA and a second PHA. The second PHA includes poly(3-hydroxybutyrate-co-3-

hydroxyvalerate-co-3-hydroxyhexanoate) or poly(3-hydroxybutyrate-co-3-hydroxyhexanoate-co-3-hydroxyoctanoate-co-3-hydroxydecanoate-co-3-hydroxydodecanoate-co-3-hydroxydodecenoate). Hammond does not disclose or suggest a blend containing the two PHAs recited in claim 82. Thus, claim 82 is also not anticipated or rendered obvious by Hammond.

For at least the reasons set forth above, Applicant requests reconsideration and withdrawal of this rejection.

The Examiner rejected claims 1-8, 30-49, 52-56, 59-63, and 79 under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Doi, U.S. Patent 5,693,389 ("Doi").

Pending claims 1-7, 36-49, 52-56, 59-63, and 79, as amended, cover blends that include from about 25 % by weight to about 49 % by weight of the second PHA. The second PHA is a copolymer containing at least two different comonomers, one of which is 4-hydroxybutyrate, 3-hydroxypropionate, 4-hydroxyvalerate, 6-hydroxyhexanoate, 3-hydroxyhexanoate, 3-hydroxyoctanoate, 3-hydroxydecanoate, 3-hydroxydodecanoate, or 3-hydroxydodecenoate.

Doi discloses a composition containing a first polymer which contains predominantly R(-)-3-hydroxybutyric acid and a second polymer which is a random copolymer of R(-)-3-hydroxybutyric acid and S(+)-3-hydroxybutyric acid. See, e.g., the Abstract. Doi does not disclose or suggest a blend that includes a copolymer containing a comonomer required by claims 1-7, 36-49, 52-56, 59-63, and 79. Further, Doi does not disclose or suggest that the composition contains from 25 wt% to 49 wt% of a second PHA, as required by claims 1-7, 36-49, 52-56, 59-63, and 79. Thus, claims 1-7, 36-49, 52-56, 59-63, and 79 are not anticipated or rendered obvious by Doi. For at least the reasons set forth above, Applicant requests reconsideration and withdrawal of this rejection.

Applicant believes that the application is now in condition for allowance, which action is requested.

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Serial No. : 10/783,995  
Filed : February 20, 2004  
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Attorney's Docket No.: 14074-014001

Enclosed is a check for the Petition for Extension of Time fee. Please apply any other charges to deposit account 06-1050, referencing Attorney's Docket No.: 14074-014001.

Respectfully submitted,

Date: 1-23-06

  
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